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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,533	09/27/2006	Yoichiro Yamanaka	06686/HG	8114
1933	7590	08/04/2009		
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			EXAMINER	
220 Fifth Avenue			JACKSON, MONIQUE R	
16TH Floor				
NEW YORK, NY 10001-7708			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			08/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/594,533

Applicant(s)

YAMANAKA ET AL.

Examiner

Monique R. Jackson

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 5-11 is/are allowed.
- 6) ☒ Claim(s) 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. The amendment filed 4/16/09 has been entered. Claim 4 has been canceled. Claims 1-3 and 5-14 are pending in the application. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

2. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 recites the limitation "any one of claims 1 to 11" however Claim 4 has been cancelled and hence the dependency should not include Claim 4 and the metes and bounds of Claims 12 and 13 are not clear.

Claim Rejections - 35 USC § 103

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al for the reasons recited in the prior office action and restated below.

4. Shimizu et al teach a polyester laminate film free of whitening upon retorting, comprising plural polyester layers, which comprises one surface layer comprising a polyester A and a lubricant in a proportion of 1-5 wt % and the other surface layer B comprising a polyester wherein 5-15 mol % of the entire acid component is a dimer acid component; and the laminate film is suitable for laminating to a metal plate for producing food containers and beverage cans (Abstract.) The polyester composition A has a cyclic trimer content of preferably not more than 0.7wt%, more preferably not more than 0.5 wt%, so as to suppress the possible precipitation of oligomer in the film and migration of the oligomer into the beverages thereby degrading the taste and flavor of the container content; wherein the polyester may be polyethylene terephthalate

copolymer and polybutyrene terephthalate copolymer with other copolymer components including those as listed such as a cyclohexane dimethanol (Col. 4, line 23-Col. 5, line 12.) Shimizu et al teach that the polyester film may be formed on one or both sides of a metal sheet for producing a food container wherein additives may be incorporated based upon whether the film is on the inner or outer wall of the container (Col. 5, lines 23-32.) The polyester B can be formed from glycol components and dicarboxylic acid components as recited in Col. 6, including 5-sodium sulfoisophthalate as well as mixtures thereof, wherein terephthalic acid and ethylene glycol being preferred (*which would produce a hydrophilic copolyester as claimed*; Col. 6, lines 28-54.) Shimizu et al teach that the film may be coextruded and biaxially oriented or unoriented; and that both A and B layers can have a thickness of 3-20 microns (Col. 7, lines 10-55.) Though Shimizu et al do not specifically teach the mol% of the glycol components in the upper layer A as instantly claimed or the mol% of the dicarboxylic acid components of the lower layer B as instantly claimed, one having ordinary skill in the art at the time of the invention would have been motivated to utilize any of the glycols or dicarboxylic acid components taught by Shimizu et al in any amounts, utilizing routine experimentation to determine the optimum amounts of each to provide the desired mechanical properties for a particular end use. Further, though Shimizu et al only specifically teach the cyclic trimer content of the polyester A composition, one skilled in the art would have been motivated to also limit the cyclic trimer content in the composition B to prevent migration from layer B as well into the container contents.

Response to Arguments

5. Applicant's arguments, see pages 6-9, filed 4/16/09, with respect to Claims 1-3 and 5-11 have been fully considered and are persuasive. The rejection of claims 1-3 and 5-11 has been

withdrawn. However, Applicant's arguments do not apply to Claim 14 given that Claim 14 does not require the hydrophilic copolyester to be the same as claimed in Claim 1 and argued by the Applicant as providing unexpected results.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 10:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Monique R Jackson/
Primary Examiner, Art Unit 1794
August 3, 2009